


IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Robert Nathaniel McNeil, #30083-074,)
)
Petitioner,)
)
v.)
)
Warden, FCI, Estill,)
)
Respondent.)
_____)

Civil Action No. 2:15-271-SB

ORDER



This matter is before the Court upon Robert Nathaniel McNeil's ("McNeil" or "the Petitioner") *pro se* petition for a writ of habeas corpus pursuant to 29 U.S.C. § 2241. Pursuant to 28 U.S.C. 636(b)(1)(B) and Local Rule 73.02(B)(2)(c) (D.S.C.), the matter was referred to a United States Magistrate Judge for initial review. On May 21, 2015, Magistrate Judge Mary Gordon Baker issued a report and recommendation ("R&R"), analyzing the issues and recommending that the Court dismiss the petition without prejudice based on the Petitioner's failure to show that a motion pursuant to 28 U.S.C. § 2255 is inadequate or ineffective to test the legality of his detention. Attached the R&R was a notice advising McNeil of his right to file written, specific objections to the R&R within fourteen days of receiving a copy. To date, no objections have been filed.

The Magistrate Judge makes only a recommendation to the Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. Mathews v. Weber, 423 U.S. 261 (1976). The Court is charged with making a de novo determination only of those portions of the R&R to which specific objections are made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the

Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of specific objections, the Court reviews the matter only for clear error. See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’”) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Here, no objections were filed, and the Court has reviewed the record, the applicable law, and the findings and recommendations of the Magistrate Judge for clear error. After review, the Court agrees with the Magistrate Judge that McNeil has failed to show that a section 2255 motion is inadequate or ineffective to test the legality of his conviction or sentence. Accordingly, the Court adopts the R&R (Entry 9), and this section 2241 motion is dismissed without prejudice and without requiring the Respondent to file a response.

 **AND IT IS SO ORDERED.**


Sol Blatt, Jr.
Senior United States District Judge

June 12, 2015
Charleston, South Carolina